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2 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
3 -----x

4 CORY EPPS,

5 Plaintiff,

6 v.

1:19-cv-00281-LJV

7 THE CITY OF BUFFALO, DETECTIVE
8 JOHN BOHAN, DETECTIVE
9 REGINALD MINOR, DETECTIVE
0 MARK STAMBACH, DETECTIVE
1 JAMES GIARDINA, DETECTIVE
ANTHONY CONSTANTINO,
DETECTIVE ROBERT CHELLA,
RANIERO MASSECHIA, CHARLES
ARONICA AND CHIEF JOSEPH RIGA,

-2 Defendants.

-----x
January 21, 2021
10:45 a.m.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 2

APPEARANCES:

RICKNER, PLLC

Attorney for plaintiff

14 Wall Street

Suite 1603

New York, NY 10005

BY: ROB RICKNER

CITY OF BUFFALO LAW DEPARTMENT

CORPORATION COUNSEL'S OFFICE

Attorney for defendant

65 Niagara Square

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BY: MAEVE HUGGINS

PRESENT:

STEPHANIE PANOUSIERIS

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STIPULATIONS

3

4

IT IS HEREBY STIPULATED AND AGREED,

5

by and between counsel for the respective
parties hereto, that all objections, except
as to form, are reserved to the time of
trial.

6

IT IS FURTHER STIPULATED AND AGREED
that the deposition may be signed and sworn
to before any officer authorized to
administer an oath.

7

IT IS FURTHER STIPULATED AND AGREED
that the sealing and filing of the
deposition be waived.

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JAMES F. GIARDINA,

3

called as a witness, having been duly
4 sworn, testified as follows:

5

EXAMINATION

6

BY MR. RICKNER:

7

Q. State your name for the record.

8

A. James F. Giardina,

9

G-i-a-r-d-i-n-a.

10

Q. What is your address?

11

A. 341 Willow Green Drive, Amherst,
12 New York 14228.

13

Q. Okay. Good morning, Detective.

14

A. Hello, sir.

15

Q. When you retired from the Buffalo
16 Police Department, were you a detective?

17

A. Yes.

18

Q. Okay. So I'll call you
detective. Have you ever had your
20 deposition taken before?

21

A. Yes.

22

Q. How many times?

23

A. I don't -- a couple times at
24 least.

25

Q. Were any of those depositions

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Giardina

5

2

with respect to your work as a police
officer?

4

A. Yes.

5

Q.

Were any of those depositions
civil rights cases?

7

A. No.

8

Q.

Were any of those depositions
cases where somebody alleged excessive
force?

10

A.

No.

11

Q.

Were any of those depositions
cases where somebody alleged that you had
said something dishonest?

13

A.

No.

14

Q.

Now, you may remember from these
prior depositions or from your prep, but
there are a few ground rules just to make
sure that the deposition goes smoothly.

16

Q.

First, I ask rambling questions
and you may know exactly where I'm going
even though I keep talking and talking and
talking; and even though you know what I'm
going to ultimately ask, please wait until
I'm finished before jumping in with an

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Giardina

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answer. Can you do that?

3

A. Sure.

4

Q. Also, I need verbal responses; you have to say yes or no. If you say uh-huh or if you nod your head, it can't be taken down clearly by the court reporter and we don't get a good transcript. Can you do that for me?

5

A. Yes, sir.

6

Q. And now, you're testifying over Zoom you know, in an office building, but the rules are the same as though you were in court; meaning, you have to tell the truth, the whole truth, and nothing but the truth. Will you do that for me?

7

A. Yes, sir.

8

Q. Great. Now, when did you graduate high school?

9

A. 1970.

10

Q. Okay. When did you join the Buffalo Police Department?

11

A. 1971.

12

Q. Between 1970 and 1971, did you hold any different positions in law

13

1 Giardina

7

2 enforcement?

3 A. No.

4 Q. When did you retire from the
5 Buffalo Police Department?

6 A. 2006.

7 Q. Since 2006 have you held any
8 positions in law enforcement?

9 A. No, sir.

10 Q. When you started at the Buffalo
11 Police Department in 1971, did you go to
12 some sort of academy or basic training?

13 A. Yes.

14 Q. And how long was that?

15 A. Approximately six months.

16 Q. During that six-month training in
17 1971, did you receive any instruction
18 regarding how to do a lineup, meaning an
19 in-person lineup?

20 A. Not really instructions, just
21 kind of walked us through a lineup and just
22 showed us how it was actually done.

23 Q. Okay. During that training
24 period, was there anything that you were
25 told to do specifically with regard to an

1

Giardina

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2

in-person lineup?

3

A. Not that I could recall.

4

Q. Was there anything you were told
not to do?

5

A. No, not that I could recall.

6

Q. Okay. During that six-month
training period in 1971, did you receive
any instruction on how to do a photographic
lineup where you place photographs with
similar people onto a sheet and show it to
a witness?

7

A. No.

8

MS. HUGGINS: Form.

9

Q. Do you know what Brady is with
respect to law enforcement?

10

A. Yes, if I recall. Yes.

11

Q. What is your understanding of
Brady?

12

A. To present evidence to --
regarding evidence. Or I don't know. I'm
not too clear on that.

13

Q. This isn't a pop quiz. I just
want to know what you know.

14

A. I've been out of this for

1

Giardina

9

2

16 years and I kind of --

3

Q. Why would you still care? I
understand.

4

A. Yeah.

5

Q. But going back in 1971 when you
were doing the six months training, was
there an understanding that you had to turn
over exculpatory evidence to the
prosecution, meaning evidence that might
tend to show that the criminal defendant
was innocent?

6

A. Yeah.

7

Q. Were you trained with regard to
that during those six months?

8

A. Yeah, I believe so.

9

Q. Okay. Now, after your training
period, did you have a particular position
at the Buffalo Police Department that you
assumed?

10

A. I was a patrol officer.

11

Q. How long were you a patrol
officer?

12

A. Approximately ten years.

13

Q. So until about 1981?

1

Giardina

10

2

A. Yes.

3

Q. Now, in the period from 1971 to
4 1981 while you were a patrol officer, did
5 you personally conduct any lineups?

6

A. No.

7

Q. Did you do any photographic
8 identifications?

9

A. No.

10

11

Q. After 1981 did you assume another
position?

12

A. Yes.

13

Q. What was that?

14

A. The narcotics squad.

15

16

Q. Did you have a particular title
at the narcotics squad?

17

A. I eventually became a detective.

18

19

Q. Okay. But in 1981 when you first
joined the narcotics squad, did you have a
new title?

20

A. Just still police officer.

21

22

Q. Okay. And while you were at the
narcotics squad, you became a detective?

23

A. Yes.

24

Q. When was that?

25

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Giardina

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A. I don't recall the exact --
within a year or two.

4

Q. Okay. So 1982, 1983 thereabouts?

5

A. Right.

6

Q. When you became a detective at
the narcotics squad, did you go back to the
academy and get additional training?

9

A. No.

10

Q. Did you have to take any classes?

11

A. No.

12

Q. Did you receive any specific

on-the-job training?

14

A. Mostly on the job, OJT,

on-the-job training.

16

Q. Okay. Was any of the on-the-job
training with respect to doing a lineup?

18

A. No.

19

Q. Was any of the on-the-job
training with respect to doing a
photographic lineup?

22

A. No.

23

Q. Was any of the on-the-job
training involving turning over exculpatory
evidence to the prosecution that may be

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Giardina

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uncovered during an prosecution?

3

MS. HUGGINS: You can answer.

4

A. Yes.

5

Q. And can you tell me what you learned during that on-the-job training with respect to exculpatory information?

8

A. To turn over any information, any statements or any evidence that was found or any statements that the defendants might have made.

12

Q. And did you ever have instances while you were a detective at any time where the District Attorney asked you to turn over exculpatory information?

16

A. Sure, yes.

17

Q. Now, how long were you part of the narcotics squad?

19

A. Approximately 15 years.

20

Q. So 1995 or 1996?

21

A. Yes.

22

Q. After you left the narcotics squad, where did you go?

24

A. Then I was a precinct detective.

25

Q. What's a precinct detective?

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Giardina

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A. It investigates most, you know, crimes done in the precinct that weren't -- that didn't go to the homicide squad or narcotics squad or any of the specialty squads; usually larcenies or burglaries, stuff like that.

3

4

5

6

7

8

Q. And what precinct were you assigned to?

9

A. Precinct 17.

10

11

12

Q. Is that a particular neighborhood in Buffalo?

13

A. It's North Buffalo.

14

15

Q. And how long were you a precinct detective?

16

A. For one year.

17

Q. So maybe 1996 or 1997?

18

A. Right.

19

20

21

Q. And after you stopped being a precinct detective, what was your next position?

22

23

A. Then I was transferred to the homicide squad.

24

25

Q. And when you got to the homicide squad, did you get any additional classroom

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Giardina

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or academy training?

3

A. When I first got there, there was
a seminar, like a five-day seminar that all
the detectives went through. I just
happened to time it to be there at the
beginning of that, the seminar, when they
were holding that seminar.

9

Q. When they did that seminar, did
anyone from outside the Police Department
come in to teach?

12

A. Yes.

13

Q. Do you remember who that was?

14

A. No.

15

Q. Do you remember if they were part
of some particular group like the FBI or
the NYPD?

18

A. I believe what I can recall is
they had I think it was a service, a
company that handled these seminars, and
they brought in people from all over, local
FBI agents from different departments.

23

Q. Do you remember the name of the
company?

25

A. No.

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Giardina

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Q. Now, going back to, you know, the
late 1990s at the Buffalo Police
Department, how many people were part of
the homicide squad?

6

A. Well, there are 12 -- how I
remember it, there are 12 detectives, a
lieutenant and then a chief.

9

Q. The lieutenant was Conwell?

10

A. Conwell, right.

11

Q. And the chief at that point was
Riga?

13

A. Right.

14

Q. Now, were the 12 detectives
broken up into particular shifts, for
example, a day shift and a night shift?

17

A. Right. There were four groups of
three and we all rotated.

19

Q. Four groups of three?

20

A. Right.

21

Q. Did each one of these four groups
have a particular time that they were
assigned to work or did it move around?

24

A. It rotated through the weeks.

25

Q. Not everyone was on night shift

1

Giardina

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continuously, for example?

3

A. Right.

4

Q. And your group of three in 1997
when you started, who was it?

5

A. Detective Mark Stambach and
Detective Michael Lyons.

6

Q. Now, between when you started in
1997 or so and let's say the beginning
of 2000, was your group of three
continuously you, Stambach, and Lyons?

7

A. For the most part, yes.

8

Q. Okay. Were there any other
officers that you worked with frequently
during that time period?

9

A. I wouldn't say frequently but,
you know, sometimes on particular occasions
if we got called in, if, you know, either
we needed help or they needed help, they
would call us in or call them in for extra
help. But as far as scheduling, it was
basically just the three of us at a time.

10

Q. Now, the offices of the homicide
squad at that point, was it just one big
room where you all had desks, did you have

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Giardina

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separate offices, or something else?

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A. Right. The lieutenant had his
separate office and the chief had his
separate office.

6

Q. So the detective squad was an
open plan where everyone's desks were
around and then the lieutenant and the
chief had their own offices?

10

A. Right.

11

Q. Was there a particular area where
there were typewriters?

13

A. On every desk probably there was
a typewriter.

15

Q. At that point, did you also have
computers?

17

A. A couple.

18

Q. Would it be fair to say that at
that time some people used the typewriters
and some people used the computers?

21

A. Right.

22

Q. Besides everybody having their
own desk, were there any bulletin boards up
that had particular information during this
time period?

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Giardina

18

2

A. Yeah. Yes.

3

Q. Was there a bulletin board that showed suspects that everyone was looking for in homicides?

4

A. No.

5

Q. Was there a place you could go to look to see, you know, for example, the identikits of potential suspects in a homicide?

6

MS. HUGGINS: Form.

7

A. There was the files, that's all. You know, we had file cabinets and each case had a file. And if you wanted information, you would just go pull the file and look through that.

8

Q. Would you talk to other officers about their homicide investigations outside of your circle of three?

9

A. Sometimes, yes.

10

Q. If there was a trial going on, would you generally be aware that one of the homicide cases was currently in court?

11

A. Sure.

12

Q. Now, besides this open plan area

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Giardina

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and the two offices, was there also an
interrogation room?

4

A. Yes.

5

6

7

Q. Was that right next to the
detective squad or was it somewhere else in
the building?

8

9

A. No. It was right next to the
main office.

10

11

Q. Was there more than one
interrogation room?

12

A. No. We only had one.

13

14

15

Q. If you had to interrogate more
than one person at once, was there another
room you could use?

16

17

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19

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21

A. There was an office across the
hall that -- it was the -- I forgot what --
it was a different squad, but we would
use -- they only worked days, so we would
-- at night, we had access to their
computers or typewriters or desks.

22

23

24

Q. Did the interrogation room that's
closest to the homicide squad have a
typewriter in it?

25

A. Yes.

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Giardina

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Q. Did it have a tape recorder?

3

A. No.

4

Q. Was there a tape recorder you could use if you wanted to tape record an interview?

5

A. I don't recall seeing one in the squad. There may have been, but we never used one.

6

Q. Okay. And did you have a video camera that was available if you wanted to videotape an interview or confession?

7

A. No.

8

Q. Now, you understand that there was someone murdered by the name of Tomika Means in 1997?

9

A. Yes.

10

Q. Did you ever work on that investigation?

11

A. No. Well, very little. I had nothing to do with the initial investigation. I just took a statement -- or not statement, took an interview or two that I can recall.

12

Q. Okay. About when did you do

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Giardina

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those interviews?

3

A. Within -- I don't know, within a couple days of the incident.

5

Q. And do you remember who you interviewed?

7

A. Only by referring to my -- the paperwork in the file.

8

Q. Okay. I'm trying to think. Most of the paperwork that I gave you should have a little number on the bottom right-hand corner. The document that you're talking about, can you identify the number in the bottom right-hand corner for me?

16

MS. HUGGINS: You mean the

17

statement that reminded him of --

18

MR. RICKNER: What he did.

19

MS. HUGGINS: Yeah.

20

Do you understand his question?

21

A. Yeah. This shows just the Paul Pope case. Oh, wait, here.

23

Okay. I don't see anything on the -- well, there's two -- looks like two affidavits.

24

25

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Giardina

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Q. Okay. Can you just give me the
Bates number? And that's lawyer speak for
the numbers in the bottom right-hand corner
usually with respect though those
documents.

3

4

A. It's 571.

5

MR. RICKNER: Maeve, could you
just hold that up to the screen for me
so I could see which one's being talked
about? Got it.

6

7

8

9

10

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All right. Can we mark Epps
00571 as Exhibit 14?

14

15

16

17

(Whereupon, Epps 00571 through
572 was marked as Exhibit 14 for
identification as of this date by the
Reporter.)

18

19

Q. And is Exhibit 14 an affidavit
that you signed?

20

A. Yes.

21

22

23

24

25

Q. And reading this affidavit
refreshed your recollection that you had
done interviews in the Tomika Means murder
investigation?

A. It says that here, but I don't

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Giardina

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recall it at all.

3

Q. Okay. As you sit here today,
besides the documents that you've reviewed,
do you have any recollection of the Tomika
Means investigation?

4

A. None whatsoever.

5

Q. Now, did you work with a
Detective John Bohen, B-o-h-e-n?

6

A. He worked opposite of us, but he
was in the same building -- or same office.

7

Q. What do you mean by he worked
opposite us?

8

A. Well, he was -- like I said,
there were four groups of three. He was a
different group.

9

Q. So would he have been days while
you were nights?

10

A. Right.

11

Q. Got it.

12

When was the last time you spoke
with John Bohen?

13

A. I don't recall. It's been years
and years since I've even seen him. I mean
I ran into him one time at a store, just

1

Giardina

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said hello and I asked how he was doing,
and I think that had to be I'd say at least
ten years ago.

5

6

Q. Now, do you remember who else was
in John Bohem's group of three?

7

8

A. I believe the breakdown, Bratos,
B-r-a-t-o-s I think it's spelled, and I
forgot who the third person was in that
group.

11

12

Q. Do you know a detective by the
name of Reginald Minor?

13

A. Yes.

14

15

Q. Now, did you ever work with
Detective Minor on a case?

16

A. On any case?

17

Q. On any case.

18

A. Yes, I'm sure we did.

19

20

Q. Okay. When was the last time you
spoke with Detective Minor?

21

22

23

24

25

A. I haven't spoken to him in, same
thing, probably -- maybe -- same thing, I
ran into him one time at an outing probably
seven or eight years ago I would have to
estimate.

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Giardina

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Q. Now, we've established you know a Detective Mark Stambach, right?

3

A. Yes.

4

5

6

Q. When was the last time you spoke with Detective Stambach?

7

8

A. I believe I saw him approximately a year ago.

9

Q. And what did you discuss?

10

11

A. Just personal stuff, nothing work related.

12

13

Q. Did you talk about this case?

A. No.

14

15

Q. Have you ever discussed this case with Detective Stambach?

16

A. No.

17

18

MS. HUGGINS: Form. Meaning this lawsuit or --

19

MR. RICKNER: This lawsuit.

20

A. No, not at all.

21

22

Q. Do you know a Detective Anthony Constantino?

23

A. Yes.

24

25

Q. When was the last time you spoke to Detective Constantino?

1

Giardina

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A. Probably within the last ten
years I might have seen him once or twice.

4

Q. Did you ever work on cases with
Detective Constantino?

6

A. Yes.

7

Q. Do you know a detective named
Robert Chella?

9

A. Yes.

10

Q. When was the last time you spoke
with Detective Chella?

12

A. Two days ago.

13

Q. Really? What did you discuss?

14

MS. HUGGINS: It was a meeting
with counsel.

16

Q. Okay. Besides meetings with
counsel, have you spoken with Detective
Chella in the last ten years?

19

A. On and off, probably see him once
a year or so.

21

Q. Did you ever discuss this lawsuit
with Detective Chella outside the presence
of counsel?

24

A. No.

25

Q. Do you know a Detective Raniero

1

Giardina

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Massechia?

3

A. Yes.

4

Q. And that's M-a-s-s-e-c-h-i-a?

5

A. I believe so.

6

Q. And when was the last time you

7 spoke with Detective Massechia?

8

9

A. I don't think I've seen him in
the last ten years.

10

11

Q. And do you know Detective Charles
Aronica?

12

A. Yes.

13

14

Q. When was the last time you spoke
with Detective Aronica?

15

16

A. Again, probably once in the last
ten years.

17

18

19

Q. And what about Chief, and I
suppose later, Captain Riga, or maybe
Captain and then Chief Riga?

20

21

22

A. Well, he was captain -- his civil
service rank was captain, but his title was
chief of homicide.

23

Q. Got it.

24

25

And when was the last time you
spoke with him?

1

Giardina

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A. I saw him this summer.

3

Q. Did you discuss this lawsuit?

4

A. No.

5

Q. When did you first become aware
of this lawsuit? And I'm not talking about
communications with counsel, just the date.

6

A. I believe it might have been a
month or so ago I got a call saying that if
I was going to be in the area around the
middle of January.

7

Q. Okay. And prior to that, you
weren't aware of this lawsuit?

8

A. No.

9

Q. Now, you said in the area. Do
you still live in the general Buffalo area?

10

A. Yes, yes.

11

Q. Okay. Do you watch the local
news?

12

A. Yes.

13

Q. Do you read any of the local
papers?

14

A. Sure.

15

Q. Which ones?

16

A. Buffalo News.

1

Giardina

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Q. Do you recognize the name Cory
Epps?

4

A. Yes, sounded familiar.

5

Q. Okay. Did you see any articles
or other news when Cory Epps was released
from custody?

7

A. No.

9

Q. At any time prior to this
lawsuit, have you learned that Cory Epps
had been exonerated?

12

A. No.

13

Q. Now, earlier we discussed that
each case had a file; is that right?

15

A. Yes.

16

Q. Was there somebody in charge of
keeping the files?

18

A. Well, we had a report technician
who kept it in order and put new reports in
and put them in the order they were
supposed to be in and she basically kept up
the file.

23

Q. Okay. Were there instances where
you would put a report in a file without
going to the report technician?

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Giardina

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A. No. It would always -- I'd have to say most -- well, as far as my experience, I never put anything in the file myself. I would give it to her, she would type it, I would sign it, give it back to her and she would enter it in the file.

9

10

Q. Okay. When you say give it to her, what do you mean?

11

12

13

14

A. I'd put it on her desk. There was a basket on her desk and you would place it in the basket, and then eventually it would end up in the file.

15

16

17

Q. Okay. When you would provide things to the report technician, would these be like handwritten notes?

18

19

20

21

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25

A. It could be handwritten notes, sure. We would -- my procedure was I would take handwritten notes, you would call in to a machine your report -- you would write out a report, you would call it in, she would type it out, give you the report to check and then you would sign it. And then I would staple my handwritten copy of the

1

Giardina

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report and my handwritten notes to that report. That was my normal procedure.

4

Q. And then you would sign the report?

6

A. Yes.

7

Q. And what was the name of the report technician?

9

10

A. Her name was Marilyn Lanc
L-a-n-c.

11

12

13

Q. At any time while you were at the homicide squad, was there ever a different report technician?

14

15

A. No. She was the only one that ever worked while I was there.

16

17

Q. Okay. Did you have a memo book?

A. Yes.

18

19

Q. Can you just describe what a memo book is?

20

21

22

23

A. Everybody used a different type of book. I used -- it was a small legal, like the legal -- the yellow legal pads, but the small mini ones I would use.

24

25

Q. Okay. So maybe four by eight inches, three by eight inches?

1

Giardina

32

2

A. Yeah, something like that.

3

4

5

6

7

Q. And when you were making notes in those notebooks if you had a particular homicide you were working on, would you keep one spot in the notebook for all of the notes relating to that homicide?

8

9

10

A. No. Like I said, I would tear them off after I wrote my report and staple those to my report.

11

Q. Got it.

12

13

And were there instances where you'd run out of pages in a memo book?

14

A. Sure.

15

16

17

Q. When that happened, were there some pages that hadn't been attached to a report?

18

A. Regarding that report?

19

Q. No, no, regarding anything.

20

21

A. No. I would just tear off the pages that regarded that report.

22

23

24

Q. Okay. But what I'm saying is so you have a memo book that you're using maybe every day, right?

25

A. Right.

1

Giardina

33

2

Q. Some of those pages gets torn out
and put into a report, right?

4

A. Right.

5

6

Q. Do some pages remain in the memo
book?

7

A. Sure.

8

9

Q. What happened when the memo book
got full?

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A. I would just, I don't know, put
it in my desk and -- well, it was rarely
full because, like I said, most of the
time, I would tear them out and put them in
the report. The other ones that, you know,
maybe I had a memo to myself or I had to
write down a phone number or something,
they would stay in the pad itself and then
I would -- my procedure, I would keep them
in my desk and I just had a rubber band
around them. Eventually I had a big stack
of them. But some of them might have two
or three pages, some might have had 20
pages.

Q. And that stack of memo books with
the rubber band around it, was it still

1

Giardina

34

2

there when you left the precinct in 2006?

3

MS. HUGGINS: Form.

4

5

A. When I left the homicide -- when
I retired? I believe I took them with me
when I left.

7

8

9

Q. Okay. So just so the record's
clear, you took your collection of memo
books when you retired?

10

A. Yes.

11

Q. Do you still have them?

12

13

A. I don't believe so. I believe I
shredded them.

14

15

Q. Have you looked for them
recently?

16

A. No.

17

18

19

Q. When you were working at the
Buffalo Police Department, did you ever
hear about a place called Birchfield's?

20

A. Yes.

21

Q. What was Birchfield's?

22

23

A. It was a local bar on Main
Street.

24

25

Q. And have you ever gone to
Birchfield's?

1

Giardina

35

2

A. No, not -- well, I may have been
in it on an investigation, but I've never
gone in the place for personal purposes.

5

Q. Did Birchfield's have a
particular reputation in the late '90s?

7

A. Yeah, seemed to be -- always
seemed to be some problems. There was
always -- not always, but seemed like there
was shootings or fights and always
different issues.

12

Q. And those shootings or fights
were in or around Birchfield's?

14

A. Yes.

15

Q. Did you ever arrest anyone at
Birchfield's?

17

A. No.

18

Q. Do you know if the Buffalo Police
Department ever kept any sort of
surveillance on Birchfield's because it was
a problem area?

22

A. Not that I recall or not that I
know of.

24

Q. Do you know what an identikit is?

25

A. Yes.

1

Giardina

36

2

Q. Is it correct to say that it's a
way of getting a composite drawing of
somebody?

5

A. Yes.

6

7

Q. Was that on the computer in the
late '90s?

8

9

10

11

12

13

14

15

16

17

18

A. Well, back then it was a --
actually I never used it, but I know we had
one. It was just a box and it had
different categories in there, you know, as
far as mouths, nose, shape of face, shape
of eyes and they were all different types
of, you know, of noses, different types of
eyes, different types of mouths, different
shapes of face, different hairstyles, but I
actually never used one and never -- so I'm
not too familiar with it.

19

20

Q. Was there a particular detective
who was handling the identikits back then?

21

22

A. No. I don't remember even asking
anybody to use -- to do it.

23

24

25

Q. During your work as a homicide
detective, did you ever see the results of
identikits, meaning the final face that was

1

Giardina

37

2

created?

3

A. No, not really.

4

Q. When was the first time that you

5

learned of an individual named Cory Epps?

6

A. Like I said, I vaguely remember

7

the name, but I don't know how I heard it

8

or where I heard it.

9

Q. During your time as a narcotics
detective, did the name Cory Epps ever come
up?

10

A. No.

11

Q. You know prior to any involvement
you had with Cory Epps' criminal case, had
you ever heard of Cory Epps?

12

A. No.

13

Q. Did he have any reputation around
the department?

14

A. Not that I know of.

15

Q. Do you recognize the name Russell
Montgomery?

16

A. Just from going through the file.

17

Q. Were you aware that Russell
Montgomery was convicted of murder as a
result of your investigation?

18

19

20

21

22

23

24

25

1

Giardina

38

2

A. Just -- like I said, just my only recollection is when I went through the file the other day and the name came up.

5

Q. How many homicides were there roughly in Buffalo in 1997?

7

8

A. Maybe 7- -- I believe probably in the 70s or 80s.

9

Q. And what about 1998?

10

11

12

13

14

15

16

17

18

19

A. In the ten years I was there, it varied from -- you know, I can't -- I don't remember the exact numbers, but it always varied from a low of high 50s to the high -- I think the highest year we had like 97, 97 homicides in one year, but I don't recall the exact years that those -- you know, when those numbers were. I know in the ten years I was there, that was the range.

20

21

22

23

24

25

Q. In the ten years you were there, given that there were four different squads, would it be correct to say that you worked on approximately a quarter of the homicides each year?

A. Yes, yes.

1

Giardina

39

2

Q. Did they track clearance rates?

3

And do you know what that means by the way?

4

A. Yes, yes, yes.

5

MS. HUGGINS: Form.

6

Q. Okay. What does the term
clearance rate mean?

8

A. The percentage of cases that are
cleared by an arrest.

10

11

12

Q. Okay. And do you know what the
clearance rate for homicides was in the
'90s at the Buffalo homicide squad?

13

14

15

16

17

18

A. I know we were -- I thought we
were fairly high, you know. Like compared
to the national average, I think we were
relatively above the, you know, the average
in the country. I think it was like in the
60 percent if I remember right.

19

20

Q. Sure. I'm only asking for what
you remember.

21

A. Yeah.

22

23

Q. Do you recognize the name Wymiko
Anderson?

24

25

A. Just from reading it in one of
the reports the other, you know -- two days

Giardina

2 ago and today.

3 Q. Prior to looking at those
4 documents, did you have any independent
5 recollection of Wymiko Anderson?

A. None whatsoever.

7 Q. Do you recognize the name
8 Jacqueline Bradley?

9 A. No.

10 Q. Do you remember a place called
11 the Perkins Family Restaurant?

12 A. Yes.

13 Q. What was the Perkins Family
14 Restaurant?

15 A. It was a chain restaurant
16 specializing I guess in breakfast, but it
17 was in North Buffalo.

18 Q. And was the Perkins Family
19 Restaurant in your old precinct when you
20 were a precinct detective?

21 A. Yes, it was actually.

22 Q. Do you know what times the
23 Perkins Family Restaurant was open in the
24 late '90s?

25 A. If I remember right, I think it

1

Giardina

41

2

was open 24 hours.

3

Q. Was it a popular place for police officers to hang out?

4

A. I don't know if it was -- well, probably because the 24-hour -- because it was open 24 hours and, you know, it was a place to go in the middle of the night if you wanted coffee or breakfast.

5

Q. Now, when you started an investigation into a homicide, was there a particular procedure by which you were assigned a case?

6

A. Well, you were assigned if it happened during your shift.

7

Q. So meaning that if there was a homicide during your shift, just by default you would go investigate it?

8

A. Right.

9

Q. What if additional assistance was needed on a homicide, who would assign you to work on, let's say, somebody else's case?

10

A. Well, the chief would or the lieutenant would ask you to work on a case

1

Giardina

42

2

that wasn't assigned to you if they needed
3 help.

4

Q. Now, when you were investigating
5 a homicide, was there a lead detective or a
6 specific person who was in charge of
7 investigating that homicide?

8

A. Yes, usually.

9

Q. Was that an official designation
10 or just informally you decide that it was
11 somebody's case?

12

A. Just informally.

13

Q. Now, having reviewed the
14 documents, do you remember that there was a
15 murder of somebody named Paul Pope?

16

A. You know, after reading the
17 reports, yes. But before that, I had no
18 recollection.

19

Q. Whether formally or informally,
20 do you remember who the lead detective was
21 on the Paul Pope investigation?

22

A. I believe it was Constantino,
23 Massechia and Aronica or Morales might have
24 been. At the time, there was some
25 movement. You know, people move from one

1

Giardina

43

2

section to the other because -- but I
believe it was just from reading the report
actually that it was Constantino and
Massecchia and I think Morales.

3

Q. Now, during your time as a
homicide detective, did you ever put
together a photo array to make an
identification?

4

A. Yes.

5

Q. There are, you know, a set of
photos that could be used as fillers at the
Buffalo Police Department; is that right?

6

A. Yes.

7

Q. And where were those stored?

8

A. We would usually go up to the
identification bureau and just ask for --
give them a description of what we needed
and they would produce mug shots, old mug
shots for us.

9

Q. Would you show the photograph of
the person who you were looking to have
identified or excluded and then they would
choose the fillers?

10

A. No.

1

Giardina

44

2

Q. So when choosing fillers, would

3

it be correct to say that you would say,
you know, I need a heavy set

4

African-American man and then they would go
and get people that look like that?

5

A. Right.

6

Q. Were there ever any instances
where you stepped in and picked out the
fillers yourself?

7

A. Sure.

8

Q. But there were also instances
where they would do it for you?

9

A. Most of the time, they would give
us a stack of pictures and we would go
through them and we would decide who we'd
like to -- who would we put in the photo
array.

10

Q. Okay. And when you chose your
fillers, did you fill out some sort of
form?

11

A. Yes.

12

Q. Now, after creating a photo
array, was there ever an instance where you
then showed it to somebody to see if they

1

Giardina

45

2

could make an identification?

3

A. Yes.

4

5

Q. What was the process that you used in showing somebody a photo array to make an identification?

6

7

MS. HUGGINS: Form. You can answer.

8

A. Well, we would -- it was a -- I believe if I remember right, there was -- over the years, it changed a little bit, but I think when I first started doing it, there was like a file, cardboard or heavy paper and it had six slots in it and you would put the six pictures in there and you would cover up any markings, you know, if there was a mug shot or anything, you would cover those all up and you would just show the -- so it just showed the picture itself. And then you would put some tape on it to hold it in place, and then you would show it to the witness or whoever you wanted to view it.

9

10

11

12

13

14

15

16

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20

21

22

23

24

25

Q. Was there any particular phrase that you would say to the witness before

1

Giardina

46

2

showing them the photo array?

3

A. We would just tell them to take
their time and look at each picture
individually and let us know if they
recognize anybody in that group of
pictures.

4

Q. Did you ever use photo books to
make an identification?

5

A. No, I never did.

6

Q.

Okay. Did you ever see anybody
in the precinct use a photo book to make an
identification?

7

A. No.

8

Q.

Were there books of, let's say,
maybe many, many mug shots all together
that a witness would look through to see if
they recognize somebody?

9

A.

No. I never remember seeing
anything like that.

10

Q.

Now, can we go to a single page
document with a Bates stamp COB22? It's
handwritten notes with the date 5-26-97.

11

That's the one.

12

MS. HUGGINS:

Mark it as 15?

1

Giardina

47

2

MR. RICKNER: Yes.

3

(Whereupon, COB22 was marked as

4

Exhibit 15 for identification as of
this date by the Reporter.)

5

BY MR. RICKNER:

6

Q. Do you recognize the handwriting
in Exhibit 15?

7

A. No.

8

Q. All right.

9

MR. RICKNER: I'd like to mark a
document as Exhibit 16. It's a
document with the Bates stamp COB a
bunch of zeros and then 23.

10

(Whereupon, COB23 through 24 was
marked as Exhibit 16 for identification
as of this date by the Reporter.)

11

Q. It actually doesn't appear to be
dated. It says File Number 97-083. It
looks like this.

12

A. This one?

13

MS. HUGGINS: Two-page document?

14

MR. RICKNER: It's a two-page

15

document, COB23 to 24.

16

MS. HUGGINS: And then we'll mark

1

Giardina

48

2

it as 16.

3

Q. Detective, do you recognize the
handwriting in Exhibit 16?

5

A. No.

6

Q. Next one is COB27 through 30.

7

And it's dated 5/26/97.

8

MS. HUGGINS: Is this it, Rob?

9

MR. RICKNER: Yes.

10

Mark that as Exhibit 17.

11

(Whereupon, COB27 through 30 was
marked as Exhibit 17 for identification
as of this date by the Reporter.)

14

Q. Do you recognize the handwriting
in Exhibit 17?

16

A. No.

17

Q. I'd like to go to COB31
through 32. It appears to also have a
5/26/97 date on it in the top left and it
says Riga at the very top left.

21

MS. HUGGINS: What again?

22

MR. RICKNER: 31 through 32.

23

We're marking that 18.

24

(Whereupon, COB31 through 32 was
marked as Exhibit 18 for identification

25

1

Giardina

49

2

as of this date by the Reporter.)

3

Q. Detective, do you recognize the
handwriting in Exhibit 18?

5

A. No.

6

7

Q. I'd like to mark a single-page
document, COB35. It's got two holes and at
the very top it says 97-083.

8

9 MS. HUGGINS: 19?

10

11

MR. RICKNER: Yes. And mark this
as Exhibit 19.

12

13

14

(Whereupon, COB35 was marked as
Exhibit 19 for identification as of
this date by the Reporter.)

15

Q. You got it?

16

A. Yes.

17

18

Q. Do you recognize the handwriting
in Exhibit 19?

19

A. No.

20

Q. Let's go to COB36 through 37.

21

MS. HUGGINS: 20?

22

MR. RICKNER: Yup, that's it.

23

24

25

(Whereupon, COB36 through 37 was
marked as Exhibit 20 for identification
as of this date by the Reporter.)

1

Giardina

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2

Q. Do you recognize any of the
handwriting in Exhibit 20?

4

A. No.

5

MS. HUGGINS: Just a second.

6

Just flip to the second page. Do you
recognize the handwriting on Page 2?

7

A. No.

8

Q. Bates number COB Page 40 single
page. Please mark it as Exhibit 21.

9

(Whereupon, COB40 was marked as
Exhibit 21 for identification as of
this date by the Reporter.)

10

Q. Do you recognize any of the
handwriting on Exhibit 21?

11

A. No.

12

Q. Next one we have COB93
through 96. Top left-hand corner says
0450.

13

MR. RICKNER: Let's mark that as
Exhibit 22.

14

(Whereupon, COB93 through 96 was
marked as Exhibit 22 for identification
as of this date by the Reporter.)

15

MS. HUGGINS: And that's going to

1

Giardina

51

2

be 22?

3

MR. RICKNER: Yes.

4

Q. Do you recognize any of the
handwriting in Exhibit 22 on any of the
pages?

7

A. No.

8

MS. HUGGINS: Look through on the
other pages. Do you recognize on any
of the other pages?

11

A. No.

12

MS. HUGGINS: Okay.

13

Q. Next one is COB181. It's a
single page of a memo book.

15

MS. HUGGINS: That'll be 23?

16

MR. RICKNER: Yes, please.

17

(Whereupon, COB181 was marked as
Exhibit 23 for identification as of
this date by the Reporter.)

20

Q. That's the one.

21

Do you recognize any of the
handwriting on Exhibit 23?

23

A. No.

24

Q. I'd like to do COB203.

25

MS. HUGGINS: 24?

1

Giardina

52

2

MR. RICKNER: And that's

3

Exhibit 24 please.

4

(Whereupon, COB203 was marked as

5

Exhibit 24 for identification as of
this date by the Reporter.)

6

Q. Do you recognize any of the
handwriting in Exhibit 24?

7

A. No.

8

Q. Let's go to COB215. Looks like
it says 8/10/97 in the top right. We'll
mark this as Exhibit 25.

9

(Whereupon, COB215 was marked as
Exhibit 25 for identification as of
this date by the Reporter.)

10

Q. Do you recognize any of the
handwriting in Exhibit 25?

11

A. No.

12

Q. Let's go to COB217.

13

(Whereupon, COB217 was marked as
Exhibit 26 for identification as of
this date by the Reporter.)

14

Q. Do you recognize any of the
handwriting in Exhibit 26?

15

A. No.

1

Giardina

53

2

Q. Let's go to COB226. And mark
that as Exhibit 27.

4

(Whereupon, COB226 was marked as
Exhibit 27 for identification as of
this date by the Reporter.)

7

Q. Do you recognize any of the

8

handwriting in Exhibit 27?

9

A. No.

10

Q. I'd like to go to COB856. We'll
mark this as Exhibit 28.

12

(Whereupon, COB856 was marked as
Exhibit 28 for identification as of
this date by the Reporter.)

15

Q. You found it?

16

A. Yes.

17

Q. Do you recognize the handwriting
in Exhibit 28?

19

A. No.

20

Q. Now can we get COB1003?

21

MS. HUGGINS: Is this 29?

22

MR. RICKNER: Yes. Mark it as
Exhibit 29.

24

(Whereupon, COB1003 was marked as
Exhibit 29 for identification as of

25

1

Giardina

54

2

this date by the Reporter.)

3

Q. That's the one.

4

Do you recognize the handwriting
on Exhibit 29?

5

A. No.

6

Q. I'd like to mark COB224 as
Exhibit 30.

7

8

9

(Whereupon, COB224 was marked as
Exhibit 30 for identification as of
this date by the Reporter.)

10

Q. And it's a photograph of a car.

11

12

13

14

That's the one. Do you recognize
the handwriting in Exhibit 30?

15

A. No.

16

17

18

19

Q. I'd like to turn to COB73. It's
a single page document, a printout with
some handwriting on it. We can mark this

Exhibit 31.

20

21

22

(Whereupon, COB73 was marked as
Exhibit 31 for identification as of
this date by the Reporter.)

23

MS. HUGGINS: 31?

24

MR. RICKNER: Yes.

25

Q. Do you have it?

1

Giardina

55

2

A. Yup.

3

Q. Do you recognize any of the
handwriting on Exhibit 31?

5

A. No.

6

Q. I'd like to go to COB63

7 through 64 and mark it as Exhibit 32.

8

(Whereupon, COB63 through 64 was
9 marked as Exhibit 32 for identification
10 as of this date by the Reporter.)

11

MS. HUGGINS: Did you say 32?

12

MR. RICKNER: Mm-hmm.

13

Q. Do you recognize any of the
handwriting on Exhibit 32?

14

A. No.

15

Q. I'd like to mark COB183 as
16 Exhibit 33.

17

(Whereupon, COB183 was marked as
18 Exhibit 33 for identification as of
19 this date by the Reporter.)

20

Q. That's the one.

21

Do you recognize the handwriting
22 on Exhibit 33?

23

A. No.

24

Q. I'd like to mark COB110 as 34.

25

1

Giardina

56

2

(Whereupon, COB110 was marked as

3

Exhibit 34 for identification as of
this date by the Reporter.)

4

Q. Do you recognize any of the

5

handwriting on Exhibit 34?

6

A. No.

7

Q. I'd like to look at COB38 and
it's sort of a torn yellow sheet, looks
like this. Can we mark this as Exhibit 35?

8

(Whereupon, COB38 was marked as

9

Exhibit 35 for identification as of
this date by the Reporter.)

10

Q. Do you recognize the handwriting
in Exhibit 35?

11

A. No.

12

Q. I'd like to look at COB65. We
can mark that as Exhibit 36.

13

(Whereupon, COB65 was marked as
Exhibit 36 for identification as of
this date by the Reporter.)

14

Q. Do you recognize any of the
handwriting in Exhibit 36?

15

A. No.

16

Q. Can you tell me what Exhibit 36

1

Giardina

57

2

is, by which I mean what is this form?

3

A. It looks like a -- it's hard to tell because it's pretty dark. It looks like a summons, a type of -- I don't know if it's a parking ticket or --

7

Q. Okay. Was this a standard form used at the Buffalo Police Department?

9

A. Looks it. Yeah, looks like it could be a parking ticket or a -- looks like a parking ticket to me.

12

Q. Okay. Now, in preparing for this deposition, is it fair to say that you looked over several documents?

15

A. Yes.

16

Q. And one of those settings of documents was a collection of documents that I provided if you know?

19

A. I don't know where they came from. I just know they were put in front of me and I looked through them.

22

MS. HUGGINS: He's looked through case file documents as well as the exhibits that you sent over this morning.

1

Giardina

58

2

Q. Did you see your own handwriting
in any of the documents that you reviewed?

4

A. No.

5

Q. Okay. This might be a nice
natural spot for a break. I don't need
lunch. I leave that up to the witness and
the court reporter and I guess Maeve as
well. I can just push through until 2:00
no problem, but if you guys do want food,
maybe now is a good time, maybe it's not.
Otherwise, maybe just take 15 just to
stretch our legs.

14

MS. HUGGINS: Yeah, let's just

15 take a quick 15 to stretch our legs.

16

MR. RICKNER: Okay.

17

MS. HUGGINS: Thanks.

18

MR. RICKNER: Thank you.

19

(Whereupon, a short recess was
20 taken.)

21

MR. RICKNER: Back on the record.

22

Q. Detective, during your work at
23 the Buffalo homicide squad, did you ever
24 participate in any lineups?

25

A. Yes.

1

Giardina

59

2

3

4

5

6

7

Q. Were there ever any instances where somebody was identified in a lineup by a witness, but then you made a new lineup shortly afterwards and then redid it to see if the witness could identify them again?

8

9

MS. HUGGINS: Form. You can answer.

10

11

12

13

14

15

16

17

18

A. Well, we would -- you wouldn't do it again. You would just change positions. We'd do it like two or three times. Set it up, you know, have the six people standing there, and then if they would identify it, then we would change everybody up and do it again. We would probably do that two or three times, but we would not get a whole new group of stand-ins.

19

20

21

22

23

24

25

Q. Okay. So if my understanding is correct, at the Buffalo Police Department, you'd put together a lineup and if somebody was identified, you'd then shuffle the same witness and fillers around and have the witness look at it again?

A. Yes.

1

Giardina

60

2

Q. Excuse me. By witness, I mean
the same person seeking to be identified.

4

A. Right. Yes.

5

6

Q. And what was the purpose of doing
that?

7

A. Just to change the -- I don't
know, just procedure I guess. You know, we
just would -- just to try different
location, I don't know, just to make sure
that it was fair I guess.

12

Q. If somebody wasn't identified in
the first lineup, would you shuffle the
person being identified in the fillers
around and let them try it again?

16

A. I think we probably wouldn't.

17

Q. As you sit here today, can you

remember an instance where you did that?

19

A. No.

20

Q. We already discussed photo
arrays. Was there ever an instance where
you put somebody's photos into a photo
array with fillers and showed it to a
witness but then made another photo array
and showed it to the witness again just

22

23

24

25

1

Giardina

61

2

like the lineup procedure?

3

MS. HUGGINS: Form.

4

A. The same suspect, the same --

5

Q. The same suspect with different
fillers.

6

A. No.

7

Q. If somebody was placed into a
photo array and was not identified, would
you put that suspect into a different photo
array and let the witness try again?

8

MS. HUGGINS: Form. You can

9

answer.

10

A. If he didn't identify it, if they
didn't identify the -- no.

11

Q. So I'd like to mark Epps 74 as
Exhibit 37.

12

(Whereupon, Epps 74 was marked as
Exhibit 37 for identification as of
this date by the Reporter.)

13

MS. HUGGINS: Can you repeat the
Bates number again?

14

MR. RICKNER: 74. It's an
April 16, 1998 memorandum.

15

A. What was it, 74?

1

Giardina

62

2

Q. Yes. Epps 74.

3

A. Okay.

4

5

Q. Can you identify Exhibit 37 for
the record?

6

7

A. Yes. It's a departmental --
interdepartmental memo signed by myself.

8

9

Q. Are these called P-73s?

10

11

A. P-73, right.

Q. Now, I notice that it has both
your name and Detective Stambach's name on
it; is that right?

12

13

A. Right.

14

15

Q. But you're the one who signed it?

A. Right.

16

17

Q. Does that indicate that this
would have been typed up based on your

18

notes?

19

A. Right.

20

21

Q. Did you ever type these up

yourself?

22

A. No.

23

24

25

Q. Now just going to the top

section, there's a file number. Do you see

that?

1

Giardina

63

2

A. Yes.

3

Q. And then underneath it, there's
the name Paul T. Pope?

5

A. Right.

6

7

Q. Does that file number indicate
that this is the Pope murder?

8

A. According to this, it does.

9

Q. Okay. When it says subject, Paul
T. Pope, that means the victim, right?

10

11

A. Right.

12

13

Q. And in the homicide division.

That means the victim's dead?

14

A. Right.

15

16

Q. And each murder gets its own file
number?

17

A. Right.

18

19

Q. So based on this File
Number 98-073 corresponds to the Paul Pope
murder?

20

21

A. Right.

22

23

24

25

Q. Now, it says that the above
stated detectives along with Detective
Sergeant Chella and Detective Minor went to
92 Marigold. Do you see that?

1

Giardina

64

2

A. Yes.

3

Q. Now, I think we discussed earlier
that Chella and Minor were not part of your
group of three in 1998?

4

A. Right.

5

Q. So would it be fair to say that
based on this information, that Detectives
Chella and Minor were assisting your group
of three with this investigation?

6

A. Yes.

7

Q. And it says that there was an
anonymous phone tip. Do you see that?

8

A. Yes.

9

Q. Sitting here today, do you know
who provided that tip?

10

A. No.

11

Q. When there was an anonymous phone
tip, even though it was anonymous, would
there be some sort of record made as to
when the tip came in?

12

A. There could be if somebody would
note it and put it in a report.

13

Q. Was there a formal method of
tracking anonymous tips at the Buffalo

1

Giardina

65

2

homicide squad in 1998?

3

A. No, not that I recall.

4

5

Q. Okay. And it says that you found
somebody named Ronald DeBowes?

6

A. Yes.

7

8

9

Q. And it said you had information
from the victim's girlfriend that DeBowes
was a friend of Mr. Pope?

10

A. Okay.

11

Q. Do you see that?

12

A. Yes.

13

14

15

Q. Would this indicate that as of
April 16th, 1998, you had already spoken to
the victim's girlfriend?

16

A. Yes.

17

18

Q. Do you remember who the victim's
girlfriend was?

19

20

A. No, not without going through the
file and looking.

21

22

Q. Okay. We'll get to that in a
second.

23

24

25

MR. RICKNER: I'd just like to
move on to Epps 75. Mark this as
Exhibit 38.

1

Giardina

66

2

(Whereupon, Epps 75 was marked as

3

Exhibit 38 for identification as of
this date by the Reporter.)

5

MS. HUGGINS: So Epps 75 is 38?

6

MR. RICKNER: Yes, please.

7

8

Q. Can you identify Exhibit 38 for
the record?

9

A. It's also a P-73.

10

11

Q. And now this one is signed by
Detective Stambach; is that correct?

12

A. Right.

13

14

Q. Now, did Detective Stambach ever
type up his P-73s?

15

16

A. No. I believe he did the same
thing I did. He put them in for typing.

17

18

19

20

Q. And would it be correct to say
that because Detective Stambach signed
this, that he would have been the note
taker?

21

A. Right.

22

23

Q. Would you have also taken your
own notes?

24

A. Probably not.

25

Q. Now, according to this P-73, you

1

Giardina

67

2

went to 1270 Fillmore and met with Wymiko
3 Anderson?

4

A. Yes.

5

6

Q. Do you remember talking to Wymiko
Anderson on April 16, 1998?

7

A. No, not at all.

8

9

Q. And it says that you received a
sworn statement from her on April 16, 1998?

10

A. Yes.

11

Q. Is that correct?

12

A. Yes, that's what it states.

13

14

Q. Do you remember taking a sworn
statement from her on April 16, 1998?

15

A. No.

16

17

Q. Do you remember what time of day
this interview would have been?

18

19

20

A. It doesn't -- I don't remember
and it doesn't -- let me see. It doesn't
say in the report.

21

22

Q. Okay. I'd like to mark Epps 73
as Exhibit 39.

23

24

25

(Whereupon, Epps 73 was marked as
Exhibit 39 for identification as of
this date by the Reporter.)

1

Giardina

68

2

Q. Can you identify Exhibit 39 for
the record?

4

A. It's also a P-73.

5

6

Q. And this one's also signed by
Mark Stambach?

7

A. Yes.

8

Q. And do you have any reason to
believe that Detective Stambach would have
deviated from his usual procedure of taking
notes and then submitting them to be typed
up?

13

A. Right.

14

MS. HUGGINS: Form.

15

16

Q. Do you have any reason to believe
that wouldn't have happened here?

17

A. No.

18

MS. HUGGINS: Form.

19

20

21

Q. Do you have any independent
recollection of this meeting with the
witnesses described on Exhibit 39?

22

A. No, not at all.

23

24

25

Q. Now I'd like to mark Exhibit 40.
This one I couldn't find the Bates stamped
copy of, so it's the one without a Bates

1

Giardina

69

2

stamp marked with the date April 16, 1998,
and it involves the Vikki Cash interview.

4

(Whereupon, a document with the
date April 16, 1998 was marked as
Exhibit 40 for identification as of
this date by the Reporter.)

8

MS. HUGGINS: Signed by Mark
Stambach?

10

MR. RICKNER: Yup.

11

MS. HUGGINS: And there's a per
addresses redacted from the middle
paragraph?

13

MR. RICKNER: That's the one.

15

MS. HUGGINS: Okay.

16

A. Okay.

17

Q. And can you identify Exhibit 40
for the record?

19

A. P-73.

20

Q. And that involves an interview
with Vikki Cash?

22

A. Right, yes.

23

Q. That interview was done by you
and Detective Stambach?

25

A. Yes.

1

Giardina

70

2

Q. And is this another P-73 that
Mark Stambach would have taken handwritten
notes and then submitted to have typed up?

5

A. Yes.

6

MS. HUGGINS: Form.

7

8

Q. Do you remember anything about
the meeting with Vikki Cash?

9

A. No.

10

11

Q. Now, it says after her oral
interview she did give a sworn statement?

12

A. Yes.

13

14

Q. Would that statement have been
provided on April 16th, 1998?

15

A. Should have been.

16

17

Q. Would you have made a notation
that it wasn't performed on that date in
your general practice?

18

A. Right.

19

MS. HUGGINS: Form.

20

21

22

23

Q. Now I'd like to mark Epps 104 to
105. It's a two-page document. This is
41.

24

25

(Whereupon, Epps 104 to 105 was
marked as Exhibit 41 for identification

1

Giardina

71

2

as of this date by the Reporter.)

3

Q. Now, can you identify Exhibit 41
for the record?

5

A. It's a statement from Ronald
DeBowes.

7

Q. Now, at the top, it says the
statement is taken by and typed by
Detective James Giardina. Do you see that?

10

A. Yes.

11

Q. Did you, in fact, take and type
this statement in Exhibit 41?

13

A. According to -- yes.

14

Q. Do you have any independent
recollection of this interview?

16

A. No, not at all.

17

Q. Now. Just going down to the
middle of the statement, do you see the
sections where Mr. DeBowes states that
Mr. Pope was involved in the drug trade?

21

A. Yes.

22

Q. Now, looking at the middle, do
you see where it indicates that Mr. Pope
would give drugs to somebody named Russell
to be sold? Do you see that?

1

Giardina

72

2

A. Yup.

3

Q. Is it fair to say that selling
narcotics is relevant information
potentially in a homicide investigation?

6

MS. HUGGINS: Form.

7

A. Yes.

8

9

10

11

Q. And would it be correct to say
that disputes arise during drug
transactions which sometimes result in a
homicide?

12

MS. HUGGINS: Form.

13

A. Yes.

14

15

16

17

Q. So would the fact that the victim
was involved with dealing drugs with
somebody be a significant fact in a
homicide investigation?

18

MS. HUGGINS: Form.

19

A. Yes.

20

21

22

23

Q. And if you look at the bottom,
the very last question and answer
Mr. DeBowes states that Mr. Pope had a
large rock several thousand dollars worth?

24

A. Yes.

25

Q. What is a large rock to your

1

Giardina

73

2

knowledge?

3

A. It's a big chunk of cocaine.

4

Q. Would that be crack cocaine?

5

A. Yes.

6

Q. Would it be correct to say that
if somebody refers to rock, that's
typically crack?

7

A. Right.

8

Q. Now, going to the next page, it
says he lives with a girl on Dartmouth?

9

A. Yup.

10

Q. Do you know where that street is
in Buffalo?

11

A. Yeah.

12

Q. Where is it?

13

A. It's in the we call the
Kensington area, Bailey, Kensington,
Delavan.

14

Q. In 1998 how would you describe
the Kensington area?

15

A. Well --

16

MS. HUGGINS: Well, form.

17

MR. RICKNER: You know, I could
ask a better question.

1

Giardina

74

2

Q. Was the Kensington area
considered a high crime area in 1998?

4

A. Yeah.

5

Q. Now, do you know the street
Delavan, D-e-l-a-v-a-n?

7

A. Yes.

8

Q. And do you know the area around
the intersection of Delavan and Chelsea?

10

A. Yes.

11

Q. Is Delavan and Chelsea in
Kensington?

13

A. Yes.

14

Q. And how close is the intersection
of Delavan and Chelsea to the Dartmouth
area that we just discussed?

17

A. Specifically I don't recall how
close they were. It was in the same
general area but --

20

Q. Did you grow up in Buffalo?

21

A. Yes.

22

Q. Would it be correct to say that
you lived in Buffalo continuously from
around the time you were born until 1998?

25

A. No. Until -- probably until '73

1

Giardina

75

2

I think is when I moved out of the city.

3

Q. Okay. But as of '73, you were
working as a police officer in Buffalo?

4

A. Right.

5

Q. So would it be fair to say that
from the time you were born through 1998
you were living or working in Buffalo?

6

A. Right.

7

Q. You're very familiar with the
city at that time?

8

A. Yeah.

9

Q. Now, I'd like to go back to
Exhibit 37. And please keep Exhibit 41 in
front of you.

10

A. What'd you say about 41?

11

Q. Keep 41 around, but please take a
look at Exhibit 37.

12

A. Okay.

13

Q. Now, at the top it says, "On the
above date and time, the above-stated
detectives along with Sergeant Chella and
Detective Minor went to 92 Marigold,"
right?

14

A. Yes.

15

1

Giardina

76

2

Q. And then you found Mr. DeBowes
and took him back to the homicide bureau,
right?

5

A. Right.

6

Q. And the date listed on Exhibit 37
is April 16th. Do you see that?

7

A. Right.

8

Q. Now, looking at Exhibit 41, it
has a date of April 18th; is that right?

9

A. Right.

10

Q. And it says the statement is
started at 1800 hours or what we'd call
6:00 p.m.?

11

A. Right.

12

Q. Looking at Exhibit 73 and
Exhibit 41 together, is it possible that
there was another statement by Mr. DeBowes?

13

A. Not that I know of.

14

Q. Okay.

15

MS. HUGGINS: We're talking about
Exhibits 37 and 41?

16

MR. RICKNER: Yes.

17

Q. And what I'm wondering is can you
tell me why Exhibit 37 states that

1

Giardina

77

2

Mr. DeBowes provided a statement on
April 16th, but Exhibit 41 has a date of
April 18th?

5

A. No, I can't.

6

Q. Is it possible that more than one
statement was taken?

8

MS. HUGGINS: Form.

9

A. I don't know.

10

Q. Were there instances where you
would interview a witness more than once
during a homicide investigation?

12

A. It's possible, sure.

14

Q. Would it be correct to say that
every time you interviewed a witness, you'd
create a P-73 or get a sworn statement?

17

A. Yes.

18

Q. Now I'd like to -- unfortunately
the Bates number sort of crept over this
one, but it's Epps 1837 to Epps 1838.

21

MS. HUGGINS: It's a two-page
document?

23

MR. RICKNER: That's correct.

24

And I'd like to mark it as Exhibit 42,
although there does appear to be a

25

1

Giardina

78

2

Post-it that says Exhibit 2 on the copy
that I have.

4

(Whereupon, Epps 1837 to 1838 was
marked as Exhibit 42 for identification
as of this date by the Reporter.)

7

Q. Now, at the top, it says that
this statement was taken by Detective
Stambach and the questions were asked by
you; is that correct?

11

A. Yes.

12

Q. Would that indicate that
Detective Stambach was the one typing it
up?

15

A. Yes.

16

Q. Now, where is 401 Delaware Avenue
inside of Buffalo?

18

A. It's the Delaware -- it's called
the Delaware District. I guess not too far
from downtown.

21

Q. Okay. But it's separate from
Kensington?

23

A. Yes, for sure.

24

Q. Now, going to the second page at
the top, do you see there's questions and

1

Giardina

79

2

answers regarding somebody named Russell?

3

A. Yes.

4

Q. And is it correct to say that

5

Miss Cash told you and Detective Stambach
that Russell and the victim, Paul Pope,
hung out together?

7

A. Yes.

9

Q. And if you go a little further
down, Miss Cash provides a description of
Russell; is that correct?

10

A. Yes.

11

Q. And in the description, she says,
"Black male, light skinned, heavy set,
5-foot 9, 235 pounds or so"?

12

A. Right.

13

Q. Now, going back to the
Exhibit 40, is it correct to say that
Exhibit 40 has the date April 16, 1998?

14

A. Yes.

15

Q. And in it it said that you met
with a witness, Vikki Cash, and she gave
you a sworn statement. Do you see that?

16

A. Yes.

17

Q. Now, if you look at Exhibit 42,

1

Giardina

80

2

it says that Vikki Cash provided a sworn
statement on April 17th, 1998, and that the
statement started at 2:00 p.m. Do you see
that?

5

A. Yes.

6

Q. Do you know why Exhibit 40 is
dated April 16th and states that Miss Cash
provided a sworn statement on that day when
the sworn statement has the date
April 17th?

7

A. No. I have no explanation for
that.

8

Q. Now I'd like to mark Epps 89 and
Epps 90 and this is going to be --

9

MS. HUGGINS: That'll be 43?

10

MR. RICKNER: Yes. Wymiko
Anderson statement.

11

(Whereupon, Epps 89 and Epps 90
were marked as Exhibit 43 for
identification as of this date by the
Reporter.)

12

Q. Now, it's correct to say this
statement is dated April 17th and that it
started at 7:30 a.m.?

1

Giardina

81

2

A. Yes.

3

Q. And it says that it was typed by Detective Stambach and that the questions were being asked by you; is that correct?

4

A. Right.

5

Q. Now, if you go a few lines down, is it correct to say that the witness, Wymiko Anderson, states that Paul Pope is her boyfriend?

6

A. Yes.

7

Q. And also the father of her children?

8

A. Yup.

9

Q. And looking at the top, Wymiko Anderson had a nickname, Pumpkin?

10

A. Yes.

11

Q. Now, if you go down to the bottom two-thirds of the statement, she indicates that she saw Paul Pope leave with Russell around 1:00 and 2:00?

12

A. Right.

13

Q. Now, is it correct to say that Paul Pope was killed on April 16th?

14

A. On what date was that?

1

Giardina

82

2

Q. Is it correct to say that Paul
Pope was killed on April 16th?

4

A. I'm sorry, I didn't hear the
date. What was the date?

6

Q. Was Paul Pope killed on
April 16th, 1998?

8

A. I still didn't hear. Did he say
15?

10

MS. HUGGINS: Do you know the
date that he was murdered other than
looking at these documents?

12

A. No.

14

Q. That's fine. This isn't a trick
question.

16

MS. HUGGINS: Do you recall the
date he was murdered without looking at
documents?

18

A. No, not at all.

20

MS. HUGGINS: Okay.

22

Q. Would it be fair to say that this
person, Russell, was at least a person of
interest after hearing that he had been
with Paul Pope prior to his murder?

24

MS. HUGGINS: And we're talking

25

1

Giardina

83

2

about the Paul Pope investigation?

3

MR. RICKNER: Yeah, with respect
to the Paul Pope investigation.

4

A. Yes.

5

Q. When somebody is a person of
interest in a homicide investigation, would
it have been your practice to get a
photograph of them if it was available?

6

A. Sure.

7

Q. And, in fact, if somebody had
been arrested in Buffalo beforehand, you
could get a mugshot of them, right?

8

A. Right.

9

Q. Do you know if you got a mugshot
of Russell Montgomery around this time in
1998?

10

A. I don't recall.

11

Q. If somebody was a person of
interest in a homicide investigation, would
you seek to determine what kind of car they
drove?

12

A. Yes.

13

Q. And how would you go about
determining what kind of car somebody drove

1

Giardina

84

2

in 1998?

3

A. You could get a DMV check on his name and see if he -- what cars were registered to him.

6

Q. Was this particularly difficult?

7

A. No.

8

Q. Now I'd like to mark Epps 94 as Exhibit 44.

10

11

12

(Whereupon, Epps 94 was marked as Exhibit 44 for identification as of this date by the Reporter.)

13

A. Okay.

14

15

Q. Now, can you identify Exhibit 44 for the record?

16

A. It's also a P-73.

17

18

19

20

Q. Now, at the bottom of this document, it states that there's a reference to Detective Stambach's P93. Do you see that?

21

A. Yes.

22

23

Q. Was there a document called a P93?

24

25

A. Not that I know of. I believe that's probably a typo.

1

Giardina

85

2

Q. Okay. So that probably refers to
a P-73?

4

A. Right.

5

Q. Now, it says HBO as an

6 abbreviation here. Do you see that?

7

A. Yes.

8

Q. And what does HBO stand for?

9

A. Homicide Bureau Office.

10

Q. Now, it refers to a body found in
the trunk in the bottom section of
Exhibit 44. Do you see that?

11

A. What am I looking at? What did
you want?

12

Q. There's a reference to a body
found in the trunk. Do you see that?

13

A. Okay. Yes.

14

Q. Does this refresh your
recollection that Paul Pope's body was
found in the trunk of a vehicle?

15

A. No, not at all.

16

Q. Now I'd like you to mark as
Exhibit 45 Epps 0550.

17

(Whereupon, Epps 0550 was marked
as Exhibit 45 for identification as of

1

Giardina

86

2

this date by the Reporter.)

3

Q. Now, in this document at the top, it says it is from Detective Sergeant Chella, Detective Minor, and yourself; is that correct?

4

A. Yes.

5

Q. If you look at Page 2, you aren't listed as one of the signatories; is that correct?

6

A. Yes.

7

Q. Sometimes would P-73 reference officers who didn't ultimately sign the document itself?

8

A. Right, yes. Usually the person that signed it is the person that actually authored it.

9

Q. And sometimes the accompanying officer is listed below, right?

10

A. Yes.

11

Q. But sometimes not everyone who is there is listed; is that correct?

12

A. Right.

13

Q. Do you have any memory of going to 92 Marigold on April 18, 1998?

1

Giardina

87

2

A. No.

3

Q. Now I'd like you to look at Epps
117 and mark it as Exhibit 46.

5

(Whereupon, Epps 117 was marked
6 as Exhibit 46 for identification as of
7 this date by the Reporter.)

8

Q. Now, can you identify Exhibit 46
9 for the record?

10

A. P-73.

11

Q. Okay. And that's dated

12 April 20th, 1998?

13

A. Yes.

14

Q. Now, it states here that Melvin
15 Calhoun came to the Homicide Bureau Office
16 with Wymiko Anderson. Do you see that?

17

A. Yes.

18

Q. Do you remember Melvin Calhoun
19 coming to the homicide bureau with Wymiko
20 Anderson on April 20th, 1998?

21

A. No.

22

Q. Now, it says that he provided an
23 interview and a sworn statement. Do you
24 see that?

25

A. Yes.

1

Giardina

88

2

Q. Now, I'm going to represent to you that you were not listed on Melvin Calhoun's sworn statement.

5

A. Okay.

6

Q. Does that contradict your memory?

7

A. No.

8
9
10
11

Q. Can you think of any reason why Detectives Minor and Chella would have interviewed Mr. Calhoun instead of you and Stambach?

12

MS. HUGGINS: Form.

13
14
15
16

A. No. Just by choice, you know, we were probably in the office and said you take the statement and, you know, no reason one way or the other.

17
18

MS. HUGGINS: Form. Do you remember that happening?

19

A. No.

20
21
22
23

Q. Now, in the third paragraph, it says a photo of Mr. Russell Montgomery was shown by Wymiko Anderson to Mr. Calhoun. Do you see that?

24
25

A. Yes.

Q. Can you think of any reason why

1

Giardina

89

2

one witness would show another witness an
identification photograph?

4

A. No, not at all.

5

MS. HUGGINS: Form.

6

7

Q. Is it fair to say that's kind of
strange?

8

MS. HUGGINS: Form.

9

A. I would -- I would say that's
maybe a typo. That's the only reason I
would -- the only explanation I would have
for that.

13

14

15

16

17

Q. Okay. Would it be correct to say
that it would be more likely that you or
Mr. Stambach were the ones showing the
photograph of Russell Montgomery to a
witness?

18

A. Right.

19

20

MS. HUGGINS: Well, form. You're
saying in this instance?

21

22

23

24

MR. RICKNER: No, as part of his
pattern and practice. He doesn't
remember, but I can ask him what's
likely.

25

A. More than likely, right, that we

1

Giardina

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2

would have shown -- somebody, a detective
would have shown the photo, not another
witness.

5

6

Q. Do you know Detective Steven
Hoffman?

7

A. No.

8

9

Q. Do you know a Detective Steven
Lehman?

10

A. No.

11

12

MS. HUGGINS: If we could just go
off the record for a moment?

13

MR. RICKNER: Sure.

14

15

(Whereupon, an off-the-record
discussion was held.)

16

17

MS. HUGGINS: We're all set if
you want to go back on the record.

18

MR. RICKNER: Okay.

19

20

21

Q. I want you to take a look at
Exhibit 14 again. That's the affidavit
that you signed.

22

MS. HUGGINS: From the other day?

23

24

25

MR. RICKNER: No, it's not from
the other day. It's just from the very
beginning of this deposition.

1

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Q. Exhibit 14, did you type up
Exhibit 14?

4

A. No.

5

Q. Would it be fair to say that
somebody from the District Attorney's
Office created Exhibit 14?

8

A. That's what it looks like.

9

Q. Now, do you remember meeting with
somebody from the District Attorney's
Office with respect to Exhibit 14 or the
case of Cory Epps at all back in the '90s?

13

A. No, not at all.

14

Q. Would it have been your general
practice to discuss facts with a District
Attorney before an affidavit was typed up?

17

A. Yes.

18

Q. So would it be correct to say
that Exhibit 14 is based on information you
provided to the district attorney prior to
when it was signed?

22

A. Right.

23

Q. As you look at Exhibit 14 today,
do you see anything in it that you believe
is inaccurate?

1

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2

A. No.

3

Q. Now, sorry to jump around a bit,
but just to go back to Exhibit 43, do you
see that?

4

A. Okay.

5

Q. And it says the statement was
started at 7:30 a.m.; is that right?

6

A. Yes.

7

Q. Now, on the second page, it says
that the statement was stopped at 8:20 a.m.
Do you see that?

8

A. Yes.

9

Q. And if I'm doing the math, that's
50 minutes?

10

A. Yeah.

11

Q. Did it take 50 minutes to ask the
questions and receive the answers in
Exhibit 43?

12

A. From the time we started typing
until we finished typing it was the
50 minutes.

13

Q. Would there have been a
conversation with the witness prior to when
the typing started?

1

Giardina

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2

A. More than likely.

3

Q. Is it possible that there's
information that was provided in that
50 minutes that is not reflected in
Exhibit 43?

7

A. In the 50 -- no, what do you

mean? In the 50 minutes that we typed it?

9

Q. Yeah.

10

A. Or are you talking about the time
before --

12

Q. No. Just in the 50 minutes that
it was being typed up.

14

A. Okay.

15

Q. Well, let me step back. I may
have confused myself.

17

Would it have been your procedure
to ask all of the questions and then type
it up?

20

A. No. We would type the question
out, ask the question, then type the
question in, then go to the next question.

23

MS. HUGGINS: When you say type
the question, do you mean type the
response?

1

Giardina

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2

A. Type the response, we would type
the response and then ask the next
question. Type in the question and then
wait for the answer or the response.

6

Q. What I'm asking is is was there
information provided by the witness that
might not have made it into Exhibit 43 in
the questions and answers?

10

11

12

13

14

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A. It could be. But I would say if
any information she gave us in the
interview before the statement was started,
we would use that as part of the statement.

Q. Right. Would there be some
information that you maybe didn't consider
particularly relevant that you'd leave out
of a statement like Exhibit 43?

MS. HUGGINS: Form. You can

answer.

A. It's possible.

Q. Is Exhibit 43 an exact transcript
of the conversation between yourself and
Wymiko Anderson over that 50 minutes?

A. Yes.

Q. Every word that was said is in

1

Giardina

95

2

Exhibit 43?

3

MS. HUGGINS: Form.

4

A. Well, I can't say every word.

5

6

7

You know, there might have been a word or two or, you know, asking if they wanted something to drink or something like -- you know, there could have been other conversation, but anything relevant would have been put into the statement.

8

9

10

Q. Was Wymiko Anderson given the opportunity to make any corrections to Exhibit 43 prior to when she signed it?

11

A. Yes.

12

13

14

Q. And how would she have gone about making those corrections?

15

16

17

18

19

20

21

22

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25

A. Well, before she signs it, we give her the statement and have her -- our normal procedure is to after the statement's typed, to give it to the person that made the statement and ask them to read it and tell us if there's anything that needs to be changed.

Q. Okay. Now, I'd like to go to Exhibit 1 actually from the prior

1

Giardina

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2

deposition if you can pull that up.

3

A. Okay.

4

Q. Can you identify the type of
document that Exhibit 1 is?

6

A. I don't know what number it was,
but --

8

MS. HUGGINS: Was there a name
for it other than --

10

A. Yeah, there was probably a
number, but I don't remember what the
number was. It looks like --

12

Q. If I told you it was called a
Homicide Section Activity Report, would
that refresh your recollection?

16

A. Yeah, could be.

17

Q. Do you remember filling out
documents like Exhibit 1?

19

A. No, I don't remember ever filling
out anything like this. You know, I've
seen it.

22

Q. I'm not talking with respect to
the Means homicide or the Pope homicide. I
just mean in general.

25

A. In general I don't remember ever

1

Giardina

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2

in any case filling out this form.

3

Q. Do you remember testifying at a
hearing with respect to Cory Epps?

4

A. No.

5

MR. RICKNER: I'd like to mark
this as 47.

6

(Whereupon, the transcript was
marked as Exhibit 47 for identification
as of this date by the Reporter.)

7

MS. HUGGINS: The transcript,
correct?

8

MR. RICKNER: Yes.

9

Q. Now, prior to this deposition,
did you have the opportunity to review your
testimony in Exhibit 47?

10

A. Prior to -- oh, yes.

11

Q. Prior to us going on the record
in this deposition?

12

A. Yes.

13

Q. In your review of Exhibit 47, did
you see anything that you believed to be
inaccurate?

14

A. No.

15

Q. Do you adopt that testimony as

1

Giardina

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your testimony today?

3

MS. HUGGINS: Well, form. He's

4

already testified he doesn't recall

5

giving that testimony.

6

MR. RICKNER: That's fair.

7

I'd just like a moment to confer
with my associate and then maybe I just
want to hunt down one other thing, so
maybe can we go off the record for like
ten minutes and then I'm probably
wrapping up.

13

Unless you have any questions,
Maeve, then maybe now would be a good
time.

16

MS. HUGGINS: I may have one, but
I'll let you finish up before.

18

MR. RICKNER: All right.

19

(Whereupon, a short recess was
taken.)

21

MR. RICKNER: All right. Back on
the record.

23

24

25

Q. Detective, is it fair to say that
during your time as a homicide detective
that you testified at trial?

1

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A. Yes.

3

Q. Did you also testify in grand
jury proceedings?

5

A. Yes.

6

Q. Were there ever any instances
where you were cross-examined with your
grand jury proceedings while you were on
the stand?

9

10 A. Yes.

11

Q. Is it fair to say you understand
the importance of making sure that you have
a clear and accurate record when you're
testifying under oath?

12

A. Right, yes.

13

Q. Prior to a case going to trial,
would you meet with the district attorney?

14

A. Yes.

15

Q. If you were a key witness, would
you potentially meet with the district
attorney multiple times?

16

A. Yes.

17

Q. When you met with the district
attorney, where would that occur?

18

A. Usually in the -- at their

1 Giardina 100
2 office.

3 Q. Did you ever meet with a district
4 attorney at the homicide squad?

5 A. Once in a while, I would say --
6 if they happened to be there, they might
7 ask some questions or talk about it. But
8 for the most part, we would go to their
9 office.

10 Q. Okay. I don't have any questions
11 left at this time.

12 MR. RICKNER: Maeve, you said you
13 had one more?

14 EXAMINATION

15 BY MS. HUGGINS:

16 Q. Sir, you were shown Exhibits 39
17 and 40. I'm showing you what's been marked
18 as Exhibits 39 and 40. Do you remember
19 specifically how Detective Stambach created
20 39 and 40?

21 A. What do you mean how physically,
22 how physically he --

23 Q. Meaning do you have a
24 recollection of how he created these P-73s
25 specifically?

1

Giardina

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A. No, not at all.

3

MS. HUGGINS: Okay. That's all I
4 have.

5

MR. RICKNER: One follow-up
6 question.

7

FURTHER EXAMINATION

8

BY MR. RICKNER:

9

10

Q. How many years did you work with
Detective Stambach?

11

12

A. The whole ten years I was in
homicide.

13

14

Q. And you described that everybody
was broken off into groups of three.

15

A. Right.

16

17

Q. Was he within your group of three
for all ten years?

18

19

A. Most of it. Yes, I would -- now
that I think of it, yes.

20

21

22

Q. Is it fair to say that you're
familiar with how Detective Stambach
prepares P-73s?

23

A. Yes.

24

25

Q. And when you testified
beforehand, would it be correct to say that

1

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2

you were testifying based on your personal
knowledge of how Detective Stambach
generally did things even if you couldn't
remember the specific instance?

3

A. Yes.

4

Q. You've been testifying for
several hours today; is that fair to say?

5

A. Yes.

6

Q. As you sit here today, is there
anything that you said that comes to your
mind that you'd like to change?

7

A. No.

8

Q. And do you understand that you're
going to be given a copy of this transcript
to review and sign?

9

A. Yes.

10

Q. And do you understand that if you
make any changes, you can be cross-examined
with those changes at trial?

11

A. Yes.

12

MR. RICKNER: No further
questions.

13

MS. HUGGINS: Thanks everyone.
I'll take a copy. I prefer it

1

Giardina

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2

via PDF.

3

MR. RICKNER: And I would like it
both ways, hard copy and PDF.

5

(Time noted: 1:34 p.m.)

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January 21, 2021

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ERRATA

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PAGE/LINE

CHANGE/REASON

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1 Giardina
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105

9 JAMES F. GIARDINA
10
11
12

13 Subscribed and sworn to
14 before me this day
15 of 2021
16
17

21
22
23
24
25

1

106

2

CERTIFICATE

3

STATE OF NEW YORK)

4

) ss.

5

COUNTY OF NEW YORK)

6

7

I, Jennie Siolidis, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify:

10

11

12

13

14

That JAMES F. GIARDINA, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the testimony
given by such witness.

15

16

17

18

I further certify that I am not
related to any of the parties to this action
by blood or marriage and that I am in no way
interested in the outcome of this matter.

19

20

21

22

JENNIE SIOLIDIS

23

24

25

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1
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date April 16, 1998

17

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18

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19

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